

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE MAY 8, 2012

AMENDED IN SENATE APRIL 23, 2012

SENATE BILL

No. 1191

Introduced by Senator Simitian

February 22, 2012

An act to add Section 2924.9 to the Civil Code, relating to landlord-tenant relations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, as amended, Simitian. Landlord-tenant relations: disclosure of notice of default.

Existing law generally regulates the hiring of real property, including, among other things, specifying certain obligations imposed on landlords and obligations imposed on tenants. Existing law, until January 1, 2013, requires a tenant of property upon which a notice of sale has been posted to be provided a specified notice advising the tenant that, among other things, the new property owner may either give the tenant a new lease or rental agreement, or provide the tenant with a 60-day eviction notice, and that other laws may prohibit the eviction or provide the tenant with a longer notice before eviction.

This bill would require every landlord who is in default under a mortgage or deed of trust secured by a single-family dwelling, or a multifamily dwelling not exceeding 4 units, and who has received a notice of default from the mortgagee, trustee, or other person authorized to take the foreclosure sale to disclose the notice of default in writing to any prospective tenant prior to executing a lease agreement for the property. The bill would also provide that a violation of those provisions

would allow the tenant to void the lease and entitle the tenant to recovery of twice the monthly rent or twice the amount of actual damages from the landlord, and all prepaid rent, in addition to any other remedies that are available. The bill would also provide that if the tenant elects not to void the lease and the foreclosure sale has not yet occurred, the tenant may deduct ~~twice the monthly rent~~ *a total amount equal to two months' rent* from future rent obligations owed the landlord who received the notice of default. The bill would specify the content of the written disclosure notice.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2924.9 is added to the Civil Code, to
2 read:

3 2924.9. (a) Every landlord who is in default under a mortgage
4 or deed of trust secured by a single-family dwelling, or a
5 multifamily dwelling not exceeding four units, and who has
6 received a notice of default from the mortgagee, trustee, or other
7 person authorized to take the foreclosure sale shall disclose the
8 notice of default in writing to any prospective tenant prior to
9 executing a lease agreement for the property subject to the notice.

10 (b) A violation of subdivision (a) shall void the lease at the
11 election of the tenant and shall entitle the tenant to recovery of
12 twice the monthly rent or twice the actual damages, whichever is
13 greater, and all prepaid rent from the landlord who received the
14 notice of default, in addition to any other remedy that the law may
15 provide.

16 (c) In lieu of the remedies in subdivision (b), if the tenant elects
17 not to terminate the lease and the foreclosure sale has not occurred,
18 the tenant may elect to deduct ~~twice the monthly rent~~ *a total*
19 *amount equal to two months' rent* from future rent obligations
20 owed the landlord who received the notice of default.

21 (d) The written disclosure notice required by subdivision (a)
22 shall be substantially in the following form:

23
24 The foreclosure process has begun on this property, and this
25 property may be sold at foreclosure. If you rent this property, and
26 a foreclosure sale occurs, the sale may affect your right to continue

1 to live in this property in the future. Your tenancy may continue
2 after the sale. In order for the new owner to evict you, the new
3 owner must provide you with at least 60 days' written eviction
4 notice or 90 days if required by any other provision of state or
5 federal law. However, some laws may prohibit eviction.

O